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COMMISSION STAFF’S PETITION TO	§	BEFORE THE STATE OFFICE
REVOKE THE RETAIL ELECTRIC	§	
PROVIDER CERTIFICATE OF AXON	§	OF
POWER & GAS, LLC	§	
	§	ADMINISTRATIVE HEARINGS

**MOTION TO DISMISS PETITION TO REVOKE THE RETAIL ELECTRIC
PROVIDER OF AXON POWER & GAS, LLC**

On June 17, 2019, the Staff of the Public Utility Commission of Texas (Commission) filed a petition to revoke the retail electric provider (REP) certificate of Axon Power & Gas, LLC. On July 22, 2019, this matter was referred to the State Office of Administrative Hearings (SOAH). On November 13, 2019, SOAH Order No. 4 was filed, abating the proceeding pending settlement negotiations. On January 9 and August 17, 2020, SOAH Order Nos. 5 and 6 were filed, continuing the abatement of the proceeding and requiring status reports to be filed on specified dates. On September 23, 2020, SOAH Order No. 7 was filed, requiring status reports to be filed on the first day of each month, beginning with December 1, 2020.

I. MOTION TO DISMISS

Commission Staff respectfully withdraws its petition to revoke Axon’s REP certificate and moves to dismiss the proceeding without prejudice, pursuant to 16 Texas Administrative Code (TAC) § 22.181(d)(10) and (g)(1).¹ Through settlement negotiations, Commission Staff and Axon ultimately agreed to a different path for the resolution of Axon’s violations laid out in the petition. Commission Staff will file the documents associated with the agreed path forward in a separate docket today. Additionally, all but one of the intervenors in this proceeding filed motions to withdraw, which the SOAH administrative law judge acknowledged in SOAH Order Nos. 9, 10, and 11, filed on May 9, May 11, and June 16, 2022 respectively.²

¹ Under 16 TAC § 22.181(d)(10), “[d]ismissal of a proceeding...may be based on...withdrawal of an application consistent with subsection (g) of this section.” 16 TAC § 22.181(g)(1) provides that “[a] party that initiated a proceeding may withdraw its application without prejudice to refiling of same, at any time before that party has presented its direct case.”

² The one remaining intervenor, Legends Unity, Inc. (Legends), has not responded to Commission Staff’s communications about the status of settlement negotiations over the past three months. Legends’ claimed interest in this proceeding is related to an alleged breach of contract whereby Axon did not pay for certain consulting services

II. CONCLUSION

Commission Staff respectfully withdraws its petition to revoke Axon's REP certificate and moves to dismiss the proceeding without prejudice to refile in accordance with 16 TAC § 22.181(d)(10) and (g)(1).

Dated: October 14, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**DIVISION OF COMPLIANCE &
ENFORCEMENT**

Barksdale English
Division Director

/s/ Jenna Keller
Jenna Keller
State Bar No. 24123891
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7285
(512) 936-7268 (facsimile)
Jenna.Keller@puc.texas.gov

provided by Legends. *See* Legend Unity, Inc.'s Motion to Intervene (Aug. 20, 2020). Under 16 TAC § 25.107(6)(i), proceeds from a REP's irrevocable stand-by letter of credit must be distributed in a certain order of priority; if any proceeds remain after satisfaction of all obligations related to the order of priority, the proceeds are paid to the REP. Consulting services provided by a business to a REP are not included in the order of priority for distribution of proceeds, and therefore, would not be handled in a REP revocation proceeding. Legends' monetary claim against Axon should be handled through a more appropriate proceeding that allows for recovery related to such a claim.

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 14, 2022, in accordance with the Order Suspending Rules issued in Project No. 50664.

/s/ Jenna Keller
Jenna Keller